



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/160910

PRELIMINARY RECITALS

Pursuant to a petition filed September 29, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Community Care Inc. in regard to Medical Assistance, a hearing was held on December 02, 2014, at Milwaukee, Wisconsin.

There remains no issue for determination.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Benjamin Eysers
Community Care Inc.
205 Bishops Way
Brookfield, WI 53005

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Effective April 1, 2014 Petitioner's cost share amount for the family care program was \$205 per month. Petitioner failed to pay his cost share in May, June, July, August, and only paid \$25 in September.

3. On September 18, 2014 the agency sent Petitioner a notice stating that effective November 1, 2014 Petitioner would not be enrolled in the Family Care Program due to his failure to pay his monthly cost share. Petitioner maintained that he could not afford \$205 in monthly cost share.
4. On September 29, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.
5. Following the hearing the agency re-determined that Petitioner's cost share should have been \$0. The agency implemented this \$0 cost share amount back to July 1, 2014. Based upon this re-determination the agency no longer seeks to dis-enroll Petitioner from the Family Care Program. That was the only issue for this appeal.

DISCUSSION

Cost sharing is the monthly amount family care program participant as well as other home based long term care participants have to contribute toward the cost of his/her services. See generally, *Medicaid Eligibility Handbook (MEH)*, §28.5.1. Payment of that obligation is a condition of eligibility. *MEH*, § 28.8.3.1. Indeed, when an economic support agency is informed by a managed care organization that an enrollee has not met the cost share obligation for past months' services, the member will be dis-enrolled. *MEH*, §29.5.2.4; also see §11.1.

In this case Petitioner contends that he could not afford his cost share. This is very reasonable as his cost share should have been \$0 per month. The agency has corrected the cost share amount, and for that reason the agency is no longer seeking to dis-enroll Petitioner from the Family Care Program. I note that Petitioner will be responsible for any past due cost share from prior to July 1, 2014. Petitioner did not report until after October 2014 the changes that caused his cost share to be calculated at \$0 per month. There is no policy or regulations allowing the agency to go back further than July 1, 2014 with a \$0 cost share amount.

I further note that Petitioner is in a nursing home with a \$0 patient liability. Were Petitioner to be dis-enrolled, the dis-enrollment may have created an issue where his nursing home care was no longer covered. This crisis has been avoided by the agency re-determining Petitioner's cost share to allow him to continue his enrollment in this program.

CONCLUSIONS OF LAW

There remains no issue for determination.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 11th day of December, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 11, 2014.

Community Care Inc.
Office of Family Care Expansion